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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,724	10/26/2001	Wyatt Allen Huddleston	PF02200NA/10-31	9665

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LAW OFFICES OF CHARLES W. BETHARDS, LLP
P.O. BOX 1622
COLLEYVILLE, TX 76034

EXAMINER

AVELLINO, JOSEPH E

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/045,724

Applicant(s)

HUDDLESTON ET AL.

Examiner

Joseph E. Avellino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- A 1) ☒ Responsive to communication(s) filed on ~~26 October 2001~~ 6/6/05
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. Claims 1-20 are presented for examination; claims 1, 11, and 18 independent.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 5, 8, 9, 11-12, 15, and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Tessler et al. (USPN 5,629,868) (hereinafter Tessler).

3. Referring to claim 1, Tessler discloses a method for command brokering on behalf of an intelligent device, comprising the steps of:

defining in a wireless internet access device (i.e. TV remote control) a desired function to be performed (i.e. controlling an appliance) (col. 2, lines 36-50);

identifying the intelligent device and the desired function to a web site (i.e. subscriber station) having access to control instructions for the intelligent device (col. 2, lines 36-50);

returning, to the WIAD from the web site, a subset of the control instructions for controlling the intelligent device to perform the desired function (col. 2, lines 45-50); and

forwarding the subset of the control instructions from the WIAD to the intelligent device to effect the desired function (col. 2, lines 63-67).

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4. Referring to claim 2, Tessler discloses the forwarding step comprises forwarding through an infrared communication device (Figure 1, ref. 35).

5. Referring to claim 5, Tessler discloses the defining step comprises defining through a user keypad entry (col. 2, lines 36-50).

6. Referring to claim 8, Tessler discloses arranging for the web site to have access to the control instructions by pre-programming the control instructions into a memory of the web site (col. 2, lines 36-50).

7. Referring to claim 9, Tessler discloses accessing a server having the control instructions for controlling the intelligent device (any device which transmits the control signals is considered a "server" since it "serves" the control codes to a client requesting the data) (col. 2, lines 36-50).

8. Claims 11-12, 15, and 17-20 are rejected for similar reasons as stated above.

Claim Rejections - 35 USC § 103

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 3, 4, 6, 7, 13, 14, 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tessler in view of Maymudes (USPN 6,748,278).

10. Referring to claims 3 and 4, Tessler discloses the invention substantively as described in claim 1. Tessler does not disclose forwarding through a RF or ultrasonic communication device. In analogous art, Maymudes discloses another method of brokering on behalf of an intelligent device wherein the forwarding can occur through an RF or ultrasonic communication device (i.e. RF or Bluetooth) (col. 3, lines 20-32). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Maymudes with Tessler since Tessler discloses the invention can be used with a plurality of different devices (col. 3, lines 10-20). This would lead one of ordinary skill in the art to determine which other intelligent devices can be used for brokering command, eventually finding Maymudes finding a command broker for televisions, stereos, VCR's speakers, microwave ovens, etc (col. 7, lines 40-50).

11. Referring to claim 6 and 7, Tessler discloses the invention substantively as described in claim 1. Tessler does not disclose defining said desired function is made by a measurement by the WIAD. In analogous art, Maymudes discloses another method of brokering on behalf of an intelligent device wherein defining said desired function is made by a measurement by the WIAD (i.e. computer facilitator 202) (col. 5, lines 35-43). Furthermore, since the WIAD is connected to the wireless network, and

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also the remote controller 204 and controlled device 206 are as well, it is considered that the measurement is done by the wireless communication network as well. It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Maymudes with Tessler since Tessler discloses the invention can be used with a plurality of different devices (col. 3, lines 10-20). This would lead one of ordinary skill in the art to determine which other intelligent devices can be used for brokering command, eventually finding Maymudes finding a command broker for televisions, stereos, VCR's speakers, microwave ovens, etc (col. 7, lines 40-50).

12. Claims 13, 14, and 16 are rejected for similar reasons as stated above.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tessier in view of Baun et al. (US 2003/0197930) (hereinafter Baun).

13. Tessier discloses the invention substantively as described in claim 1. Tessier does not disclose the intelligent device is a telescope and the defining step comprises determining coordinates based on a position. In analogous art, Baun discloses another method for brokering control which discloses intelligent device is a telescope (e.g. abstract) and the defining step comprises determining coordinates based on a position (p. 8, ¶ 87). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Baun with Tessler since Tessler discloses the invention can be used with a plurality of different devices (col. 3, lines 10-

20). This would lead one of ordinary skill in the art to determine which other intelligent devices can be used for brokering command, eventually finding Baun finding a command broker for GPS systems for telescopes (col. 7, lines 40-50).

Response to Arguments

14. Applicant's arguments filed June 9, 2005 have been fully considered but they are not persuasive.

15. Applicant argues, in substance, that (1) the TV remote control of Tessler cannot be construed as a wireless internet access device, (2) the subscriber station cannot be construed as a web site, (3) the defining step of Tessler is done in the subscriber device, not the remote control, and (4) the wireless link between the remote control and the subscriber station is not a communication network.

16. As to point (1), Applicant's rationale is incorrect. Applicant is construing limitations from the specification into the claim. Applicant is not claiming that the WIAD accesses the internet, merely using this as a label of a device. What Applicant is claiming is that the WIAD brokers commands on behalf of an intelligent device. No recitation of accessing the internet is claimed. Furthermore it can be construed that the TV remote control can be considered a wireless internet access device since it provides access wirelessly to the user since all the codes are transmitted from the head end which are broadcasted to all subscribers from the cable company via optical fiber and

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even on demand by a telephone call (col. 2, lines 25-35). This clearly demonstrates that the TV remote control can be construed as a wireless internet access device. By this rationale, the rejection is maintained.

17. As to point (2), Again, Applicant is reading limitations into the claim from the specification. A reasonable interpretation of the claimed term "web site" is "an entity which serves another entity data using a communications medium", also known as a server. The subscriber station serves the remote control the command codes used to reprogram the remote control. In this essence, the subscriber station acts as a web site for the remote control. By this rationale, the rejection is maintained.

18. As to point (3) Applicant's attention is requested to Tessler, col. 2. lines 40-45. Applicant will find out that the subscriber (i.e. the user) selects whichever is of interest from the list and then *transmits the teach code to the subscriber station*. To one of ordinary skill in the art, this clearly shows the step of defining a desired function to be performed by the intelligent device. By this rationale, the rejection is maintained.

19. As to point (4) Applicant's rationale could not be more incorrect. Applicant is advised to consult a dictionary as to the definition of the term "network". The Office utilized Microsoft Computer Dictionary which defines "network" as "a group of computers (i.e. the remote control and the headend) and associated devices that are connected by communications facilities". Applicant is arguing that a wireless link is not

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a communication network, as well as a Cat5 cable is also not a communication network, it is the connection as well as the remote control and the subscriber station that makes the wireless link a communication network. Applicant provides no rationale as to why a wireless link is not a communication network, however the Office has provided sufficient proof that the wireless link of Tessler connecting the remote control to the subscriber station is clearly a wireless communication network. By this rationale, the rejection is maintained.

Conclusion

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

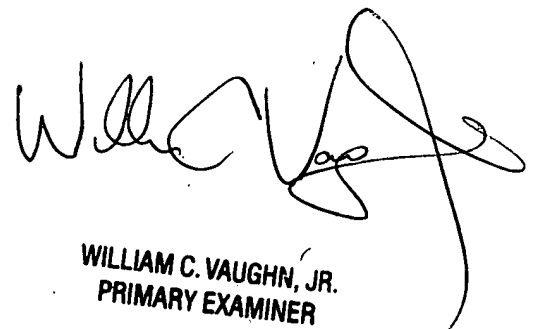
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JEA

June 28, 2005



WILLIAM C. VAUGHN, JR.
PRIMARY EXAMINER